



Utah Postsecondary Proprietary School Act

An Overview

The following is a brief overview of Utah Code Ann. Title 13, Chapter 34, Utah Postsecondary Proprietary School Act ("Act") and not a comprehensive analysis of the Act. For additional information regarding the Act, please refer to the underlying statutes or contact the Office of Legislative Research and General

Counsel.

Legislative History:

- Enacted in 1986
- Included in the rewrite of higher education provisions in 1987
- Amended in 1990, 1991, 1993, 1995, 1998, 2000, 2003
- Transferred to Title 13 in 2002 placing the regulation of postsecondary proprietary schools with the Division of Consumer Protection

Legislative Intent:

Section 13-13-102 provides that it is the policy of this state to do the following:

- encourage private postsecondary education and training;
- assure and protect the integrity of certificates and diplomas conferred by proprietary postsecondary educational institutions;
- protect students and potential students from deceptively promoted, inadequately staffed, and unqualified proprietary institutions and programs; and
- avoid unnecessary interference by the division with the internal academic policies and management practices of postsecondary educational institutions, but to facilitate disclosure of those matters to students and the public.

Proprietary School Defined:

"Proprietary school" means any private institution, including business, modeling, paramedical, tax preparation, trade and technical schools, which offers postsecondary education in consideration of the payment of tuition or fees for the attainment of educational, professional, or vocational objectives, other than those schools exempted under this Act.

Exemptions:

Exemptions include:

- a Utah institution directly supported, to a substantial degree, with funds provided by the state, a local school district, or other Utah governmental subdivision
- an institution that offers instruction exclusively at or below the 12th grade level
- a lawful enterprise that offers only professional review programs, such as C.P.A. and bar examination review and preparation courses
- a Utah private, postsecondary educational institution that is owned, controlled, operated, or maintained by a bona fide church or religious denomination, which is exempted from property taxation under the laws of this state
- a Utah school or institution that is accredited by a regional or national accrediting agency recognized by the United States Department of Education
- a business organization, trade or professional association, fraternal society, or labor union that sponsors or conducts courses of instruction or study predominantly for bona fide employees or members and does not, in advertising, describe itself as a school
- an institution that exclusively offers general education courses or instruction solely remedial, avocational, nonvocational, or recreational in nature, which does not advertise occupation objectives or grant educational credentials
- an institution that offers only workshops or seminars lasting no longer than three calendar days and for which academic credit is not awarded
- an institution that offers programs in barbering, cosmetology, real estate, insurance, or flying that are regulated and approved by a state or federal governmental agency

Registration Required:

An institution may not advertise, recruit students for, or operate a proprietary school in this state unless it has:

- filed with the division a registration statement relating to the school that complies with the Act and rules made under the Act; or

- established an exemption with the division

Examples of Registration Requirements:

(Subsection 13-24-107(9) provides "The acceptance of a registration statement, renewal statement, or amended registration statement and issuance of a certificate of registration shall not constitute, nor be represented by any person to constitute, an endorsement or approval of the proprietary school by either the division or the state.")

- The division may refuse to accept a statement of registration or exemption if:
 - the proprietary school or an owner, administrator, faculty, staff, or agent of the school has violated laws, federal regulations, or state rules as determined in a criminal, civil, or administrative proceeding; and
 - the division determines the violation is relevant to the appropriate operation of the school.
- The statement shall include a certification as to whether the school or an owner, administrator, faculty, staff, or agent of the school has violated laws, federal regulations, or state rules as determined in a criminal, civil, or administrative proceeding.
- The statement of registration or exemption shall be verified by the oath or affirmation of the owner or a responsible officer of the school filing it.
- Each proprietary school shall demonstrate fiscal responsibility at the time it files its registration statement as prescribed by rules of the division as outlined by statute.
- A proprietary school applying for an initial certificate or seeking renewal shall provide a surety bond, certificate of deposit, or irrevocable letter of credit in a form approved by the division.
- A proprietary school shall pay a nonrefundable fee.

Examples of Prohibited Acts or Responsibilities of a Proprietary School:

- Except as provided in the Act, a proprietary school may not offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study as outlined in the school's catalogue.
- A proprietary school must provide bona fide instruction through student-faculty interaction.
- A proprietary school may not enroll a student in a program unless the school has made a good-faith determination that the student has the ability to benefit from the program.
- A proprietary school shall make available to all applicants, prior to enrollment, information specified in statute.
- The recruiting documents, advertising, solicitations, publicity releases, and other public statements regarding the school shall be fair and accurate.
- All agents or sales representatives of the school are to be required by the school to comply with ethical practices prescribed by the division.
- A proprietary school shall follow a specific process if it discontinues operations.
- A proprietary school is unable to enforce in the courts of this state any contract or agreement relating to postsecondary education services in this state unless, at the time the contract or agreement was entered into, an effective registration statement was on file with the division and made accessible to every applicant at the time of admission to the school.
- Division consent is required before a proprietary school can use educational terms in its business name.

Statistical Information:

(provided by the Division of Consumer Protection as of August 25, 2004)

Status of registrations/exemption filings with the Division of Consumer Protection by proprietary schools:

Degree Granting Schools	Active	13
	Denied	1
	Expired	2
	Inactive	2
Non-Degree Granting Schools	Active	54
	Expired	31
	Inactive	12
Exempt Schools	Active	132
	Expired	1
	Pending	3

Sources: Title 13, Chapter 34, Utah Postsecondary Proprietary School Act, and data provided by the Division of Consumer Protection.